

CONFIDENTIAL

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

OCT 02 2018

David J. Smith
Clerk

BEFORE THE ACTING CHIEF JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT

Judicial Complaint No. 11-18-90063

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against _____, United States District Judge for the United States District Court for the _____ District of _____, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

ORDER

_____ (“Complainant”) has filed this Complaint against United States District Judge _____ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

As an initial matter, after Complainant filed his Complaint, he filed a supplemental statement. The filing of the supplemental statement is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that in March 2018 Complainant filed a “Petition for a Writ of Habeas Corpus Ad Testificandum” in which he took issue with the application of the Prison Litigation Reform Act to previous lawsuits he filed and alleged that the individual respondents denied him access to the courts. The next month, Complainant filed a motion seeking access to the court’s electronic filing system, asserting that the clerk and others had worked in concert to deprive him of adequate notice and discarded filings in retaliation for Complainant naming the clerk as a defendant in a lawsuit.

Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant alleges that the Subject Judge is “in dereliction of his mandatory oversight duties towards those under him.” Complainant then contends that in the above-described case, the clerk did not issue summons as required by certain rules, which was an act of “ineptitude or malevolence.” He also states that the clerk never issued summons as required by certain rules in other cases Complainant had filed where motions to proceed in forma pauperis were granted.

Complainant contends that the clerk is retaliating against him for “accessing the Courts against the Clerk and [the district’s] malfeasance.” He states, “This egregious & malevolent conduct is being performed under [the Subject Judge’s] blind-eye and this deliberate indifference is not something the Constitutional duties allow to [sic] ignore.” He attached documents to his Complaint, including a letter to Complainant from the district court clerk’s office stating that his summons and additional file-stamped copies were being returned because the court was unable to issue them as completed.

Supplement

In his supplemental statement, Complainant: (1) alleges that the court retaliated against him and denied him due process by returning certain documents; (2) alleges that the court retaliated against him by denying him access to the court’s electronic filing system; and (3) states that the clerk “wars against the Constitutional Contract . . . to weaponize authority against particular litigants.” He attached documents to his supplement.

Discussion

Complainant provides no credible facts or evidence in support of his claims that the Subject Judge engaged in misconduct.

The Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” JCDR 11(c)(1)(D). For that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



Acting Chief Judge